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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

**In re: CATHODE RAY TUBE (CRT)  
ANTITRUST LITIGATION**

Master File No. 07-5944 SC

MDL No. 1917

This Document Relates to:

*Sharp Elecs. Corp. v. Hitachi, Ltd.*, No. 13-cv-01173;

*Electrograph Systems, Inc. et al. v. Technicolor SA, et al.*, No. 13-cv-05724;

*Siegel v. Technicolor SA, et al.*, No. 13-cv-05261;

*Best Buy Co., Inc. v. Technicolor SA, et al.*, No. 13-cv-05264;

*Interbond Corporation of America v. Technicolor SA, et al.*, No. 13-cv-05727;

*Office Depot, Inc. v. Technicolor SA, et al.*, No. 13-cv-05726;

*Costco Wholesale Corporation v. Technicolor SA, et al.*, No. 13-cv-05723;

*P.C. Richard & Son Long Island Corporation, et al. v. Technicolor SA, et al.*, No. 13-cv-05725

*Schultze Agency Services, LLC, o/b/o Tweeter Opco, LLC, et al. v. Technicolor SA, Ltd., et al.*, No. 13-cv-05668;

**PLAINTIFFS' RULE 56(d)  
SUPPLEMENT TO OPPOSITION  
TO DEFENDANT THOMSON  
CONSUMER'S MOTION FOR  
SUMMARY JUDGMENT AND  
PARTIAL SUMMARY  
JUDGMENT**

The Honorable Samuel Conti

**HIGHLIGHTED DOCUMENT  
SHOWING MATERIAL SOUGHT  
TO BE SEALED**

1 *Sears, Roebuck and Co. and Kmart Corp. v.*  
2 *Technicolor SA*, No. 3:13-cv-05262;

3 *Target Corp. v. Technicolor SA, et al.*, No. 13-cv-  
4 05686;

5 *Tech Data Corp., et al. v. Hitachi, Ltd., et al.*, No.  
6 13-cv-00157;

7 *Viewsonic Corp. v. Chunghwa Picture Tubes, Ltd.*,  
8 No. 14-cv-02510.

## I. PRELIMINARY STATEMENT

On December 22, 2014, Direct Action Plaintiffs “DAPs” submitted their opposition to Thomson Consumer’s Motion for Summary Judgment. (D.E. 3236.) Although the evidence submitted at that time was and remains more than sufficient to require the denial of Thomson Consumer’s motion, DAPs’ opposition was submitted subject to the accompanying Declaration of Dayid M. Peterson and Rule 56(d) of the Federal Rules of Civil Procedure, which provides: “If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may: (1) defer considering the motion or deny it; (2) allow time to obtain affidavits or declarations or to take discovery; or (3) issue any other appropriate order.”

Since that time, Thomson Consumer has produced additional documents, and DAPs have deposed Thomson SA and Thomson Consumer pursuant to Rule 30(b)(6). On January 20, 2015, DAPs and Thomson Consumer submitted the Stipulation and [Proposed] Order Regarding Scheduling of Direct Action Plaintiffs’ Supplementation of Their Opposition to Thomson Consumer’s Motion for Summary Judgment and Thomson Consumer’s Reply in Support of Its Motion for Summary Judgment. (D.E. 3415.) Accordingly, DAPs submit this supplement to their opposition to Thomson Consumer’s motion to address three limited categories of information.<sup>1</sup>

## II. SUPPLEMENTAL EVIDENCE PURSUANT TO RULE 56(D)

### A. The European Commission Provisional Decision evidences attendance at Asian top meetings.

In its motion for summary judgment, Thomson Consumer asserted that [REDACTED]

[REDACTED]

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<sup>1</sup> DAPs incorporate and reassert all arguments made in their opposition.

1 [REDACTED] Mot. at

2 1. At the Rule 30(b)(6) deposition of Thomson SA and Thomson Consumer, the witness,

3 Meggan Ehret, [REDACTED]

4 [REDACTED]  
5 [REDACTED] The European Commission Provisional Decision refutes that contention:

6 Although there is relatively little written evidence on Thomson's  
7 participation in Top meetings in Asia, [...] it participated in such  
8 meetings once or twice a year where, among others, investment  
9 plans and price issues were discussed. [...] [Thomson's]  
employees [name] and sometimes [name] participated in those  
Asian Top meetings.<sup>3</sup>

10 In addition, the EC Provisional Decision noted that a Thomson employee was kept apprised of  
11 Asian top level meetings, which it stated demonstrated the connection between Asian and  
12 European meetings.<sup>4</sup>

13 **B. Thomson Consumer and Thomson SA obtained information and communicated**  
14 **about CDTs.**

15 Thomson Consumer also argued strongly that it had no connection to the market for  
16 CDTs. Mot. at 16–17.<sup>5</sup> However, Ms. Ehret testified during the second day of deposition that  
17 Thomson SA and its subsidiaries were indeed interested in information about CDTs:

18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 <sup>2</sup> Ex. 47, Meggan Ehret Dep. Vol. 1, 155:12–19 [REDACTED]  
23 [REDACTED]

24 <sup>3</sup> EC Provisional Decision ¶311 (footnotes omitted) (brackets in original). A copy of the EC  
25 Provisional Decision was submitted as document number 3396. The decision is also available at  
26 [http://ec.europa.eu/competition/antitrust/cases/dec\\_docs/39437/39437\\_6784\\_3.pdf](http://ec.europa.eu/competition/antitrust/cases/dec_docs/39437/39437_6784_3.pdf). The EC  
27 Provisional Decision explained that its references to “Thomson” would refer to Thomson S.A.  
28 *Id.* ¶53.

<sup>4</sup> EC Provisional Decision ¶254.

<sup>5</sup> See also Ex. 47, Meggan Ehret Dep. Vol. 1, 33:3–17 (emphasizing that [REDACTED]  
[REDACTED])



1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 C. The presence of a bates stamp beginning "T" does not necessarily mean that the  
document came only from Thomson SA.

13 At the Rule 30(b)(6) deposition of Thomson SA and Thomson Consumer, [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]  
26 [REDACTED]

27 <sup>6</sup> Ex. 48, Meggan Ehret Vol. 2, 656:21–657:21. Such documents are attached hereto as exhibits.  
28 See Ex. 49, TCE-CRT 0020914; Ex. 50, TSA-CRT00159624; Ex. 51, TSA-CRT00223692; Ex.  
52, TSA-CRT00223693; Ex. 53, TSA-CRT00222386.

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 But, in fact, there are countless documents with both a "T" and a "TCE-CRT" prefix that were  
6 addressed to an employee of Thomson Consumer.<sup>8</sup> Ms. Ehret is overgeneralizing when she  
7 claims that [REDACTED]  
8 [REDACTED]

### 9 III. CONCLUSION

10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 The Court should deny Thomson Consumer's motion.  
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18  
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22

23  
24 <sup>7</sup> Ex. 47, Meggan Ehret Vol. 1, 239:20–241:3 (emphasis added).

25 <sup>8</sup> See, e.g., Ex. 32, TCE-CRT 0018762 (Thomson Consumer employee J.P. Hirschler); Ex. 54,  
26 TCE-CRT 0005487 (Thomson Consumer employee Jacquelyn Taylor-Boggs); Ex. 55, TCE-CRT  
27 0005885 (Thomson Consumer employees Jacquelyn Taylor-Boggs and James Hanrahan); Ex.  
28 56, TCE-CRT 0005920 (Thomson Consumer employees Jacquelyn Taylor-Boggs and James  
Hanrahan); Ex. 57, TCE-CRT 0006270 (Thomson Consumer employee Jacquelyn Taylor-  
Boggs); Ex. 58, TCE-CRT 0006288 (Thomson Consumer employee Jacquelyn Taylor-Boggs);  
Ex. 59, TCE-CRT 0021684 (Thomson Consumer employee Jack Brunk); Ex. 60, TCE-CRT  
0022894 (Thomson Consumer employee Jack Brunk).

1 Dated: February 2, 2015

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**IN RE CATHODE RAY TUBE (CRT) ANTITRUST LITIGATION**

**Case No. CV-07-5944-SC**

**MDL No. 1917**

I, Kenneth S. Marks, declare:

I am employed in the County of Harris, State of Texas. I am over the age of 18 years and not a party to the within action. My business address is Susman Godfrey L.L.P., 1000 Louisiana Street, Suite 5100, Houston, Texas 77002.

On February 2, 2015, I served a true and correct copy of the following document(s) in the manner indicated below:

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**SEE ATTACHED SERVICE LIST**

Dated: February 2, 2015

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